

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
ANIMAL SCIENCE PRODUCTS, INC, and  
THE RAINS CO. INC.

Plaintiffs,

-against-

HEBEI WELCOME PHARMACEUTICAL CO.  
LTD. et al.

Defendants.

-----X

MEMORANDUM AND ORDER

Civil Action No.  
CV-05-453(DGT)

TRAGER, District Judge

Defendant Northeast Pharmaceutical Group ("defendant") moves to stay all proceedings in this matter until thirty days after the latter of: (1) the resolution of its Mulidistrict Litigation ("MDL") application, or (2) the resolution of any petition filed by plaintiffs to remand to state court the actions removed to federal court. Plaintiffs opposes this motion arguing that no judicial efficiency will be saved by imposing the stay.

Plaintiffs analysis is not complete. Plaintiffs rely for their argument on two major points: first, that no party has opposed MDL transfer to the Eastern District of New York and second, until the issue of the MDL application, plaintiffs can simply coordinate discovery with the plaintiffs in the other related cases.

As to the first argument, plaintiffs were correct, at the time their brief was written, that no party had opposed transfer

to the Eastern District of New York. Since that time, though, plaintiffs in the related matter of Philion et al. v. Hebei Welcome Pharmaceutical Co. Ltd., et al., No. C05-4524 (N.D. Cal., removed Nov. 7, 2005), have filed a response to the MDL application proposing the Northern District of California as a better and more convenient forum for consolidation. This means that any decisions made before the MDL Panel rules on the transfer application could be contradicted by another court or might need to be re-litigated. Therefore, in granting the stay valuable judicial resources will be preserved.

As to plaintiffs' second argument, as practical matter, plaintiffs will not be able to coordinate discovery with all the other parties. Defendants have not yet been formally served in all the pending actions against them. This lack of service means that there is simply no way plaintiffs will be able to coordinate discovery with all parties.

In addition, the MDL Panel is scheduled to hear oral argument on defendant's MDL application on January 26, 2006. As a result, any stay relative to the MDL Panel's decision will be relatively short in duration and will not prejudice plaintiffs.

For the forgoing reasons defendant's motion to stay is granted in part. All proceedings in this matter will be stayed until thirty days after the MDL Panel rules on defendant's MDL

application. Defendant's alternative request that the stay continue until thirty days after any motion to remand is decided, is declined at this time.

Dated: Brooklyn, New York  
December 22, 2005

SO ORDERED:

\_\_\_\_\_/s/  
David G. Trager  
United States District Judge